

REMARKS

Claims 1-25 were examined and reported in the Office Action. Claims 1-21 are rejected. Claims 1- 25 are cancelled. New claims 28-44 are added. Claims 28-44 remain. Applicant has amended the specification to overcome the informal objections. No new matter is added.

Applicant requests reconsideration of the application in view of the following remarks.

I. In the Drawings

The drawings are objected to because of reference character errors and informalities. Applicant has amended Figs. 3, 6 and 7 to overcome the objections. It is noted that the Office Action objects to Fig. 16. Applicant's application, however, does not include a Fig. 16. Applicant further checked the remaining Figs. But did not find any informalities as asserted in the Office Action. Corrected replacement sheets for Figures 3, 6, and 7, in compliance with 37 CFR 1.121(d) are included with this paper. Approval is respectfully requested.

II. Claim Objections

It is asserted in the Office Action that claim 25 is objected to as being in improper form. Applicant has cancelled claim 25 and replaced it with new claim 44, which is in proper form.

III. 35 U.S.C. §102(b)

It is asserted in the Office Action that claims 1-21 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,927,769 issued to Pullen ("Pullen"). Applicant has cancelled claims 1-21. Applicant respectfully traverses the aforementioned rejection regarding new claims 28 and 41 for the following reasons.

According to MPEP §2131,

'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Applicant's new claim 28 contains the limitations of

[a] self-latching sash latch device including a latch body having a primary bolt, a strike, the primary bolt being mounted for sliding movement in said body between a latching position where, in use, the primary bolt engages in a latching configuration with the strike and a retracted position, and an operating element operatively coupled to the primary bolt to enable the primary bolt to be moved from the latching position to the retracted position, a retaining means to retain the primary bolt in the retracted position and a secondary bolt mounted with the primary bolt and moveable relative to the primary bolt with or independent of the primary bolt to effect release of the retaining means to release the primary bolt and enable it to move from the retracted position to the latching position, the secondary bolt has a leading end which has a first engagement surface which is exposed for contact with a part of the strike when the primary bolt is moved to the retracted position by the operating element, whereby contact between the first engagement surface and said part of the strike during relative movement between the body and strike causes the secondary bolt to move to the position where it effects release of the retaining means.

Applicant's new claim 41 contains the limitations of

[a] self-latching device including a latch body having a primary bolt, a strike, the primary bolt being mounted for movement in said body between a latching position where, in use, the primary bolt engages in a latching configuration

with the strike and a retracted position, and an operating element operatively coupled to the primary bolt to enable the primary bolt to be removed from the latching position to the retracted position, a retaining means to retain the primary bolt in the retracted position and a release member moveable with or independent of the primary bolt to effect release of the retaining means to release the primary bolt and enable it to move from the retracted position to the latching position, and an indicator means moveable in response to movement of the primary bolt to provide an indication visually apparent from externally of the body of the latch device being in a latching or non-latching configuration the indicator comprising an elongate member with a distal end slidably engaged in an opening in an external surface of the body.

Pullen discloses a child's safety latch where an auxiliary bolt activates the latch bolt. In Pullen the auxiliary bolt only acts in the closing direction of the panel to which the latch is attached. That is, the auxiliary bolt only releases the main bolt when the panel is closed. Distinguishable, in Applicant's claimed invention the second or auxiliary bolt releases the primary bolt as the panel is opened. Further, the auxiliary bolt in Pullen is not mounted with the main bolt. The auxiliary bolt is quite separate though it is located adjacent to the main bolt. The secondary bolt in Applicant's claimed invention is mounted with the primary bolt and, in the preferred form, is actually slidably mounted within the primary bolt. Figures 1 and 10 of Pullen make it quite clear that the auxiliary bolt 42 is mounted to one side and above the primary bolt 56. The auxiliary bolt is therefore not mounted with the primary bolt.

With Applicant's claimed invention the primary bolt is retracted in order to release the panel so the panel to which the latch device is attached can be moved to an open position. This retraction of the primary bolt takes place with relative movement between the primary and secondary bolts so that the leading end of the secondary bolt "is exposed for contact with a part of the strike when the primary bolt is moved to the retracted position by the operating element." This exposure of the leading end of the secondary bolt enables a first engagement surface of the secondary bolt to contact with a part of the strike during relative movement between the body of the latch device and the

strike during opening of the panel. This engagement causes the secondary bolt to move to a position which effects release of the retaining means.

Therefore, in simple terms, the primary bolt is moved to its retracted position and retained. This movement exposes the leading end of the secondary bolt so as the panel is opened the secondary bolt engages with a part of the strike and is forced to move. This movement of the secondary bolt effects release of the retaining means so that the primary bolt can move back to its latching or projecting position.

Consequently the latch device of Applicant's claimed invention provides a construction where the primary bolt is retained when it is moved to the retracted position so the panel can be opened. Upon the panel moving, the resultant movement of the secondary bolt (which occurs after the primary bolt has cleared the strike) causes the retaining means to be actuated and effect release of the primary bolt back to its latching position. The primary bolt is thus ready for re-engagement with the strike when the panel is next moved to its closed position.

Therefore, since Pullen does not disclose, teach or suggest all of Applicant's claims 28 and 41 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) can not be set forth relative to Pullen. Thus, Applicant's claims 28 and 41 can not be anticipated by Pullen. Additionally, the claims that directly or indirectly depend on claims 28 and 41, namely claims 29-40, and 42-44, respectively, can not be anticipated by Pullen for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejections for claims 1-21 are respectfully requested.

III. Allowable Subject Matter

Applicant notes with appreciation the Examiner's assertion that claims 22-24 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully asserts that claims 28-44, as they now stand, are allowable for the reasons given above.

CONCLUSION


In view of the foregoing, it is submitted that claims 28-44 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: January 19, 2007

By: 
Steven Laut, Reg. No. 47,736

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.


Jean Svoboda

Date: January 19, 2007